

Matter of: Carter Chevrolet Agency, Inc.

File: B-254813

Date: December 30, 1993

Robert H. Koehler, Esq., and James A. King, Esq., Patton, Boggs & Blow, for the protester.
Tom Carlson for Stinar Corporation, an interested party.
Vera Meza, Esq., and Paul B. Robinson, Esq., Department of the Army, for the agency.
Susan K. McAuliffe, Esq., and Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where protester fails to address in its comments agency's rebuttal to original protest issues, such issues are deemed abandoned.
2. Protest of agency's evaluation of proposals is denied where evaluation was conducted in accordance with evaluation criteria set forth in the solicitation.

DECISION

Carter Chevrolet Agency, Inc. protests the award of a contract to Stinar Corporation by the Department of the Army under request for proposals (RFP) No. DAAE07-93-R-J024, for trucks equipped with an elevating conveyor system for loading and unloading material stacked on pallets. Carter primarily challenges the propriety of the agency's evaluation of the awardee's proposal.

We deny the protest.

The RFP, as amended, sought proposals for a production quantity of 33 vehicles and an option quantity of 32 vehicles. Proposed vehicles were to be of a certain gross weight and comply with military specification MIL-T-67672(AT), as modified by the RFP. Section L of the RFP contained the following offeror experience clause:

"[offerors must] have previously manufactured and sold to the public vehicle mounted powered cargo conveyor body units equipped with or without

conveyor elevating system. NOTE: The vehicle mounted powered cargo conveyor previously manufactured does not necessarily have to be identical to the type to be supplied under this contract [The concern must have] . . . manufactured on a production basis and sold to the public a vehicle mounted powered cargo conveyor during at least the 2 years preceding the date of issuance of this solicitation"

Offerors' proposals were to include commercial literature and product characteristic information, as well as literature to demonstrate the firms' experience. The RFP stated that:

"the [f]ailure of the commercial literature and characteristics sheet to show that the product offered for this contract conforms to the specification and other solicitation requirements will require rejection of the offer."

Section M of the RFP set forth evaluation factors for award concerning the evaluation of proposed costs and contractor responsibility; Section M of the RFP did not specify any particular technical evaluation factors for award. Award was to be made to the responsible offeror that submitted the lowest evaluated offer complying with all the material requirements of the solicitation.

On September 8, 1993, Carter filed a protest with our Office following an award to Stinar, alleging that Stinar's proposed vehicle failed to satisfy the solicitation's weight requirements and that Stinar had insufficient similar past experience to meet the requirements of the RFP's experience clause.

In Carter's written comments filed in response to the Army's report on the protest, the protester failed to address the merits of or provide any evidence to rebut the Army's determinations that Stinar's vehicle met the weight criterion and that the firm had adequate past experience producing similar products. Therefore, we deem these protest grounds abandoned. See TeKontrol, Inc., B-252912, Aug. 4, 1993, 93-2 CPD ¶ 81.

Stinar's proposal listed two prior Army contracts for similar vehicles. After its October 14 receipt of the agency report, which included a copy of the material portions of the awardee's technical submission, Carter filed a supplemental document request for copies of the contracts listed by Stinar in its proposal. To confirm that these contracts were for vehicle mounted powered cargo conveyors, as required by the RFP's experience clause, the agency

provided copies of the contracts to Carter on October 27 in response to the protester's initial challenge to the awardee's experience.

In its November 4 comments to the agency report, Carter alleges that based upon its review of the terms of these contracts, which contain somewhat different technical specifications, the agency improperly evaluated Stinar's proposal. Carter essentially contends that since Stinar's prior contracts had somewhat different technical requirements from those included in the current solicitation, and Stinar is currently offering the Army the same model number product as that provided under the firm's previous contracts, it is not possible that Stinar's proposed vehicle will meet all of the RFP's technical requirements. Carter concludes that the agency therefore failed to correctly evaluate the awardee's proposal for technical compliance.

As Carter points out, a technical evaluation of an offeror's proposal must be based on information in or submitted with the proposal and must be conducted in accordance with the evaluation criteria provided in the solicitation. GEC Avionics, Inc., B-250957; B-250957.2, Feb. 25, 1993, 93-2 CPD ¶ 24. Here, the RFP provided that each proposal would be evaluated by the agency for technical compliance based upon a review of the product characteristic sheet, manuals and descriptive literature submitted by the offeror, and that each offeror was to list its similar product experience for purposes of establishing product commerciality and contractor responsibility; no specific nor weighted technical evaluation criteria governing the agency's evaluation of technical proposals were set out in the RFP.

We do not agree with Carter's protest contentions that the Army conducted a faulty evaluation of the awardee's proposal based upon the protester's review of Stinar's prior contracts. The solicitation's requirement for the offerors to provide information regarding their experience expressly stated that the vehicles listed did not have to be identical to the vehicle to be supplied under the RFP. Stinar stressed in its technical descriptive literature and proposal narrative that although the awardee was offering a certain model (with the same model number provided under its earlier contracts) from its product line, each of its products is specially tailored to meet the specific technical requirements of each procurement; Stinar certified to its product's compliance with the current RFP's technical requirements.

The fact that Stinar's earlier produced vehicle met a prior contract's technical requirements which were slightly different from that required here alone does not provide

sufficient basis to protest that the awardee's offered product--which the firm has certified is specially tailored to comply with the current RFP's terms--will not meet the agency's technical requirements. Carter simply has not provided any evidence to show that the agency evaluated the awardee's proposal in any way other than in accordance with the evaluation scheme set forth in the RFP.

The protest is denied.

James F. Hinchman
General Counsel